

February 17, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, GN Docket No. 16-142

Dear Ms. Dortch:

On February 15, 2017, Alison Neplokh and the undersigned, both of the National Association of Broadcasters, met with David Grossman of Commissioner Clyburn's office and Robin Colwell of Commissioner O'Rielly's office to discuss the draft Notice of Proposed Rulemaking proposing to authorize broadcasters to use the Next Generation TV broadcast television transmission standard. NAB continues to support a voluntary, market-driven deployment of Next Gen TV. The Commission's goal in this proceeding should be to allow broadcasters to innovate – not to micromanage how they do so.

Accordingly, we urge the Commission to reject requests to impose additional regulatory burdens or mandates during this transition. For example, the American Television Alliance (ATVA), Verizon and AT&T ask the Commission to expand its draft Notice of Proposed Rulemaking by launching an inquiry into what content stations should be “permitted” to transmit and in what format, limitations in how broadcasters make use of the flexibility Next Gen TV permits and the ability to tailor the services broadcasters offer to their viewers and capacity issues associated with carriage of programming delivered using Next Gen.¹ None of these inquiries are necessary for a voluntary transition that does not require MVPDs to carry programming transmitted using the Next Gen standard. Further, seeking to impose arbitrary new content or format restrictions on broadcasters will only hamper their ability to manage the Next Gen transition and delay the deployment of innovative new services and features to the viewing public.

The Commission should also reject the tired invitation by the American Cable Association to substitute its judgment for market forces by intruding in retransmission consent

¹ Letter from Mike Chappell to Marlene H. Dortch, GN Docket No. 16-142 (Feb. 14, 2017).

negotiations to favor the narrow self-interest of ACA's members. If ACA's members find it unprofitable to resell broadcasters' signals, nothing forces them to continue to do so. If ACA's members are aggrieved by specific actions during their negotiations, they are free to allege a violation of the Commission's good faith negotiation standard and prove that claim on a fact-specific basis. Instead, ACA asks the Commission to put a regulatory thumb on the scale to benefit cable companies by prejudging private contractual negotiations. That is not the Commission's role.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick McFadden", with a long horizontal flourish extending to the right.

Patrick McFadden
Associate General Counsel,
National Association of Broadcasters

cc: David Grossman
Robin Colwell